

# Qualifications Based Selection (QBS) of Engineering & Architectural Services for Transportation Projects

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# Federal Highway Administration Who We Are?

- Modal Agency of the U.S. Department of Transportation (USDOT)
  - ◆ HQ in Washington D.C.
  - ◆ Resource Center providing technical expertise
  - ◆ Division Offices in every State
  - ◆ Oversee \$37+ billion/year
  - ◆ Ensure the Integrity of the Interstate and National Highway Systems.
  - ◆ Focused on
    - ★ Improving Safety,
    - ★ Reducing Congestion,
    - ★ Streamlining the Environmental Process
    - ★ Ensuring Financial Accountability

# Why the Emphasis on Consultant Selection?

- Maintaining Public Trust & Confidence.
  - ◆ Enron
  - ◆ Big Dig
- Regulatory Changes
  - ◆ ISTEA – 1991
  - ◆ TEA-21 – 1998
  - ◆ SAFETEA-LU – 2005
- OIG & FHWA Emphasis on Financial Accountability
- FHWA Risk Assessment
- PSB-04-13

# QBS Regulations & Policies

- Title 40 USC, Chapter 10, Subchapter VI  
**“Brooks Act”**
- Title 49 USC, Subtitle A, Part 18, Subpart C, Section 18.36 – “Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments”  
**“Common Rule”**
- Title 23, Chapter 1, Subchapter 1, Section 112  
**“Letting of Contracts”**
- 23 CFR Part 172 – **“Administration of Engineering and Design Related Services Contracts”** (Revised 06/12/02)
- FHWA Revised Guidance, Issued on 10/23/02.

# QBS – Applicability

- Applies to Design Work that is Federally funded or State/Local funded as Match for Federal funds as follows:
  - ◆ Program Management
  - ◆ Construction Management
  - ◆ Feasibility Studies
  - ◆ Preliminary Engineering
  - ◆ Design
  - ◆ Engineering
  - ◆ Surveying
  - ◆ Mapping
  - ◆ Architectural Related Services

# QBS – Required Outcomes

- Ensure that the Highest Qualified Consultant is obtained through a Qualifications Based Selection Process.
- Ensure that the prescribed work is properly accomplished in a timely manner, and at a Fair and Reasonable Cost.

# QBS – INDOT Responsibilities

- INDOT must develop Written Procedures that will be reviewed and approved by FHWA.
- INDOT shall **ENSURE** that Subrecipients comply with **ALL** Federal Requirements.
  - ◆ SAFETEA-LU Section 1904 makes INDOT responsible for Ensuring that:
    - ★ LPA's have adequate Project Delivery Systems for projects
    - ★ LPA's have sufficient Accounting Controls to properly manage Federal Funds.
- INDOT may require LPA's to follow the approved INDOT procedures or allow LPA's to develop written procedures, however, INDOT must review and approve LPA procedures, monitor and ensure compliance, including rescinding funds if necessary

# QBS – Required Elements

- Written Procedures must Include:
  - ◆ How the Project Scope of Work is Developed
  - ◆ How the Evaluation Factors are Developed
  - ◆ How Costs for Services are Estimated
  - ◆ Ensure that a Public Advertisement occurs that ensures that In-State and Out-of-State Consultants are given fair opportunity to compete.
  - ◆ Ensure that Proposals are evaluated and Ranked in order of priority (1,2,3).



# QBS – Required Elements

- ◆ Ensure that an Audit from another Cognizant Agency is accepted (Federal or State Agency), or one is conducted.
- ◆ Ensure that negotiations commence with the Highest Qualified firm in an attempt to reach an agreed upon fair and reasonable price.
- ◆ Ensure that If the Agency is unable to reach agreement, negotiations with #1 firm will be terminated and negotiations will commence with the #2 firms, etc.
- ◆ Ensure that the Consultants work is monitored and and evaluated when the work is completed.

# QBS – Required Elements

- Ensure that the Disadvantaged Business Enterprise (DBE) Program Provisions are applied, however, not as an Evaluation Factor.
- Ensure that Preferences are Not Included, such as:
  - ◆ In-State Preferences (Buy-Indiana)
  - ◆ Locality Preferences
  - ◆ Indiana M/WBE Programs
- Ensure that costs are not allowed as a criterion during the evaluation Phase of the Selection Process.
- Ensure that Indirect Cost (Overhead) Rates are only modified if a Consultant offers a lower rate and are not part of the evaluation.

# QBS – Reemphasize

- QBS only applies to Federally Funded Design contracts or contracts that are State or Locally funded that are used as a match for Federally Funded Construction.
- If Design work is State or Locally funded and not used as match, FHWA QBS requirements do not apply, and the Subsequent Construction project may still be Federally Funded.

# FHWA Contacts

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